

Senate Constitutional Amendment

No. 1

Introduced by Senator Poochigian

February 20, 2001

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to property taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, as introduced, Poochigian. Property taxation: new construction: exclusion: energy efficient modifications.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred.

This measure would provide that, for purposes of this limitation, the term “new construction” does not include the construction, installation, or modification of any fixture or improvement to real property that is undertaken for the primary purpose of increasing the energy efficiency of the real property, as specified.

Vote: ²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2001–02 Regular
- 3 Session commencing on the fourth day of December 2000,

1 two-thirds of the membership of each house concurring, hereby
2 proposes to the people of the State of California that the
3 Constitution of the State be amended by amending Section 2 of
4 Article XIII A thereof, to read:

5 SEC. 2. (a) The “full cash value” means the county
6 assessor’s valuation of real property as shown on the 1975–76 tax
7 bill under “full cash value” or, thereafter, the appraised value of
8 real property when purchased, newly constructed, or a change in
9 ownership has occurred after the 1975 assessment. All real
10 property not already assessed up to the 1975–76 full cash value
11 may be reassessed to reflect that valuation. For purposes of this
12 section, “newly constructed” does not include real property that
13 is reconstructed after a disaster, as declared by the Governor,
14 where the fair market value of the real property, as reconstructed,
15 is comparable to its fair market value prior to the disaster. Also, the
16 term “newly constructed” ~~shall~~ *does* not include the portion of
17 reconstruction or improvement to a structure, constructed of
18 unreinforced masonry bearing wall construction, necessary to
19 comply with any local ordinance relating to seismic safety during
20 the first 15 years following that reconstruction or improvement.

21 However, the Legislature may provide that under appropriate
22 circumstances and pursuant to definitions and procedures
23 established by the Legislature, any person over the age of 55 years
24 who resides in property that is eligible for the homeowner’s
25 exemption under subdivision (k) of Section 3 of Article XIII and
26 any implementing legislation may transfer the base year value of
27 the property entitled to exemption, with the adjustments
28 authorized by subdivision (b), to any replacement dwelling of
29 equal or lesser value located within the same county and purchased
30 or newly constructed by that person as his or her principal
31 residence within two years of the sale of the original property. For
32 purposes of this section, “any person over the age of 55 years”
33 includes a married couple one member of which is over the age of
34 55 years. For purposes of this section, “replacement dwelling”
35 means a building, structure, or other shelter constituting a place of
36 abode, whether real property or personal property, and any land on
37 which it may be situated. For purposes of this section, a
38 two-dwelling unit shall be considered as two separate
39 single-family dwellings. This paragraph ~~shall apply~~ *applies* to any



1 replacement dwelling that was purchased or newly constructed on
2 or after November 5, 1986.

3 In addition, the Legislature may authorize each county board of
4 supervisors, after consultation with the local affected agencies
5 within the county's boundaries, to adopt an ordinance making the
6 provisions of this subdivision relating to transfer of base year value
7 also applicable to situations in which the replacement dwellings
8 are located in that county and the original properties are located in
9 another county within this State. For purposes of this paragraph,
10 "local affected agency" means any city, special district, school
11 district, or community college district that receives an annual
12 property tax revenue allocation. This paragraph ~~shall apply~~
13 *applies* to any replacement dwelling that was purchased or newly
14 constructed on or after the date the county adopted the provisions
15 of this subdivision relating to transfer of base year value, but ~~shall~~
16 *does not* apply to any replacement dwelling that was purchased or
17 newly constructed before November 9, 1988.

18 The Legislature may extend the provisions of this subdivision
19 relating to the transfer of base year values from original properties
20 to replacement dwellings of homeowners over the age of 55 years
21 to severely disabled homeowners, but only with respect to those
22 replacement dwellings purchased or newly constructed on or after
23 the effective date of this paragraph.

24 (b) The full cash value base may reflect from year to year the
25 inflationary rate not to exceed 2 percent for any given year or
26 reduction as shown in the consumer price index or comparable
27 data for the area under taxing jurisdiction, or may be reduced to
28 reflect substantial damage, destruction or other factors causing a
29 decline in value.

30 (c) (1) For purposes of subdivision (a), the Legislature may
31 provide that the term "newly constructed" does not include any
32 of the following:

33 ~~(1)~~

34 (A) The construction or addition of any active solar energy
35 system.

36 ~~(2)~~

37 (B) The construction or installation of any fire sprinkler
38 system, other fire extinguishing system, fire detection system, or
39 fire-related egress improvement, as defined by the Legislature,

1 that is constructed or installed after the effective date of this
2 paragraph.

3 ~~(3)–~~

4 (C) The construction, installation, or modification on or after
5 the effective date of this paragraph of any portion or structural
6 component of a single- or multiple-family dwelling that is eligible
7 for the homeowner’s exemption if the construction, installation, or
8 modification is for the purpose of making the dwelling more
9 accessible to a severely disabled person.

10 ~~(4)–~~

11 (D) The construction or installation of seismic retrofitting
12 improvements or improvements utilizing earthquake hazard
13 mitigation technologies, that are constructed or installed in
14 existing buildings after the effective date of this paragraph. The
15 Legislature shall define eligible improvements. This exclusion
16 does not apply to seismic safety reconstruction or improvements
17 that qualify for exclusion pursuant to the last sentence of the first
18 paragraph of subdivision (a).

19 ~~(5)–~~

20 (E) The construction, installation, removal, or modification on
21 or after the effective date of this paragraph of any portion or
22 structural component of an existing building or structure if the
23 construction, installation, removal, or modification is for the
24 purpose of making the building more accessible to, or more usable
25 by, a disabled person.

26 (2) *For purposes of subdivision (a), the term ‘newly*
27 *constructed’ does not include the construction, installation, or*
28 *modification of a fixture or improvement to real property that is*
29 *undertaken for the primary purpose of increasing the energy*
30 *efficiency of that real property. For purposes of this paragraph, the*
31 *energy efficiency of real property is increased if that construction,*
32 *installation, or modification will result in a reduction in the*
33 *consumption on that property of heat, process heat, space heating,*
34 *water heating, steam, space cooling, refrigeration, mechanical*
35 *energy, natural gas, or electricity.*

36 (d) For purposes of this section, the term “change in
37 ownership” does not include the acquisition of real property as a
38 replacement for comparable property if the person acquiring the
39 real property has been displaced from the property replaced by
40 eminent domain proceedings, by acquisition by a public entity, or



governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. ~~The provisions of this subdivision shall be applied~~ *This subdivision applies* to any property acquired after March 1, 1975, but ~~shall affect~~ *affects* only those assessments of that property that occur after ~~the provisions of this subdivision take effect~~ *June 9, 1982*.

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision ~~shall apply~~ *applies* to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985–86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, “affected local agency” means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This

1 paragraph ~~shall apply~~ *applies* to any comparable replacement
2 property that is acquired or newly constructed as a replacement for
3 property substantially damaged or destroyed by a disaster, as
4 declared by the Governor, occurring on or after October 20, 1991,
5 and to the determination of base year values for the 1991–92 fiscal
6 year and fiscal years thereafter.

7 (f) For the purposes of subdivision (e):

8 (1) Property is substantially damaged or destroyed if it sustains
9 physical damage amounting to more than 50 percent of its value
10 immediately before the disaster. Damage includes a diminution in
11 the value of property as a result of restricted access caused by the
12 disaster.

13 (2) Replacement property is comparable to the property
14 substantially damaged or destroyed if it is similar in size, utility,
15 and function to the property that it replaces, and if the fair market
16 value of the acquired property is comparable to the fair market
17 value of the replaced property prior to the disaster.

18 (g) For purposes of subdivision (a), the terms “purchased” and
19 “change in ownership” do not include the purchase or transfer of
20 real property between spouses since March 1, 1975, including, but
21 not limited to, all of the following:

22 (1) Transfers to a trustee for the beneficial use of a spouse, or
23 the surviving spouse of a deceased transferor, or by a trustee of
24 such a trust to the spouse of the trustor.

25 (2) Transfers to a spouse that take effect upon the death of a
26 spouse.

27 (3) Transfers to a spouse or former spouse in connection with
28 a property settlement agreement or decree of dissolution of a
29 marriage or legal separation.

30 (4) The creation, transfer, or termination, solely between
31 spouses, of any coowner’s interest.

32 (5) The distribution of a legal entity’s property to a spouse or
33 former spouse in exchange for the interest of the spouse in the legal
34 entity in connection with a property settlement agreement or a
35 decree of dissolution of a marriage or legal separation.

36 (h) (1) For purposes of subdivision (a), the terms “purchased”
37 and “change in ownership” do not include the purchase or transfer
38 of the principal residence of the transferor in the case of a purchase
39 or transfer between parents and their children, as defined by the
40 Legislature, and the purchase or transfer of the first one million

dollars (\$1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision ~~shall apply~~ *applies* to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after ~~the date upon which the measure adding this paragraph becomes effective~~ *March 27, 1996*, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence ~~shall~~ *is not* be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (1).

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to

1 a replacement real property located within another county if the
2 board of supervisors of that other county has, after consultation
3 with the affected local agencies within that county, adopted a
4 resolution authorizing an intercounty transfer of base year value
5 as so described.

6 (ii) This subparagraph applies only to replacement property
7 that is acquired or newly constructed within five years after
8 ownership in the qualified contaminated property is sold or
9 otherwise transferred.

10 (B) In the case in which the remediation of the environmental
11 problems on the qualified contaminated property requires the
12 destruction of, or results in substantial damage to, a structure
13 located on that property, the term “new construction” does not
14 include the repair of a substantially damaged structure, or the
15 construction of a structure replacing a destroyed structure on the
16 qualified contaminated property, performed after the remediation
17 of the environmental problems on that property, provided that the
18 repaired or replacement structure is similar in size, utility, and
19 function to the original structure.

20 (2) For purposes of this subdivision, “qualified contaminated
21 property” means residential or nonresidential real property that is
22 all of the following:

23 (A) In the case of residential real property, rendered
24 uninhabitable, and in the case of nonresidential real property,
25 rendered unusable, as the result of either environmental problems,
26 in the nature of and including, but not limited to, the presence of
27 toxic or hazardous materials, or the remediation of those
28 environmental problems, except where the existence of the
29 environmental problems was known to the owner, or to a related
30 individual or entity as described in paragraph (3), at the time the
31 real property was acquired or constructed. For purposes of this
32 subparagraph, residential real property is “uninhabitable” if that
33 property, as a result of health hazards caused by or associated with
34 the environmental problems, is unfit for human habitation, and
35 nonresidential real property is “unusable” if that property, as a
36 result of health hazards caused by or associated with the
37 environmental problems, is unhealthy and unsuitable for
38 occupancy.

1 (B) Located on a site that has been designated as a toxic or
2 environmental hazard or as an environmental cleanup site by an
3 agency of the State of California or the federal government.

4 (C) Real property that contains a structure or structures thereon
5 prior to the completion of environmental cleanup activities, and
6 that structure or structures are substantially damaged or destroyed
7 as a result of those environmental cleanup activities.

8 (D) Stipulated by the lead governmental agency, with respect
9 to the environmental problems or environmental cleanup of the
10 real property, not to have been rendered uninhabitable or unusable,
11 as applicable, as described in subparagraph (A), by any act or
12 omission in which an owner of that real property participated or
13 acquiesced.

14 (3) It shall be rebuttably presumed that an owner of the real
15 property participated or acquiesced in any act or omission that
16 rendered the real property uninhabitable or unusable, as
17 applicable, if that owner is related to any individual or entity that
18 committed that act or omission in any of the following ways:

19 (A) Is a spouse, parent, child, grandparent, grandchild, or
20 sibling of that individual.

21 (B) Is a corporate parent, subsidiary, or affiliate of that entity.

22 (C) Is an owner of, or has control of, that entity.

23 (D) Is owned or controlled by that entity.

24 If this presumption is not overcome, the owner shall not receive
25 the relief provided for in subparagraph (A) or (B) of paragraph (1).
26 The presumption may be overcome by presentation of satisfactory
27 evidence to the assessor, who shall not be bound by the findings
28 of the lead governmental agency in determining whether the
29 presumption has been overcome.

30 (4) This subdivision applies only to replacement property that
31 is acquired or constructed on or after January 1, 1995, and to
32 property repairs performed on or after that date.

33 (j) Unless specifically provided otherwise, amendments to this
34 section adopted prior to November 1, 1988, ~~shall be~~ *are* effective
35 for changes in ownership that occur, and new construction that is
36 completed, after the effective date of the amendment. Unless
37 specifically provided otherwise, amendments to this section
38 adopted after November 1, 1988, ~~shall be~~ *are* effective for changes

- 1 in ownership that occur, and new construction that is completed,
- 2 on or after the effective date of the amendment.

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